

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the matter of:

Amendment of Parts 20 and 24 of the  
Commission's Rules -- Broadband  
PCS Competitive Bidding and the  
Commercial Mobile Radio Service  
Spectrum Cap

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WT Docket No. 96-59

DOCKET FILE COPY ORIGINAL

Amendment of the Commission's  
Cellular/PCS Cross-Ownership Rule

JUL 26 '96

To: The Commission

**SUPPLEMENT TO PETITION FOR STAY PENDING RECONSIDERATION**

THE NATIONAL PAGING & PERSONAL COMMUNICATIONS ASSOCIATION;  
PERSONAL TECHNOLOGY SERVICES, INC.; and DIGIVOX CORPORATION (collectively  
"Joint Petitioners") acting through their counsel and in accordance with Sections 1.41, 1.43, and  
1.44(e) of the Commission's rules, 47 C.F.R. §§ 1.41, 1.43, and 1.45(d), hereby supplement their  
Petition for Stay Pending Reconsideration, which was filed on July 22, 1996 with the  
Commission, to add the following additional argument regarding the impact of the Commission's  
*Report & Order, in the matter of Amendment of Parts 20 and 24 of the Commission's Rules --  
Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap;  
Amendment of the Commission's Cellular/PCS Cross-Ownership Rule*, 11 FCC Rcd 7824 (Slip  
Op. FCC 96-278, released June 24, 1996) ("Report & Order") on small businesses, such as the  
Joint Petitioners:

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## **I. ARGUMENT**

In addition to violating Section 309(j) of the Communications Act, 47 U.S.C. §§309(j)(3)(B), 309(j)(4)(C)(ii), and 309(j)(4)(D), as discussed in the Petition for Stay Pending Reconsideration, the Commission also violated Section 604(a)(3) of the Regulatory Flexibility Act when it developed the rules for the D, F and F block auctions. 5 U.S.C. §604(a)(3). That rule section requires an agency, when promulgating a final rule under the Administrative Procedure Act, 5 U.S.C. §553, to provide “a description of each of the significant alternatives to the rule consistent with the stated objectives of applicable statutes and designed to minimize any significant economic impact of the rule on small entities which was considered by the agency, and a statement of the reasons why each one of such alternatives was rejected.” The Commission, however, failed to specify alternatives to the new rules or how those rules could possibly minimize economic harm to small businesses. As explained in the Petition for Reconsideration, the Commission simply failed to consider the adverse impact of its new rules, as exacerbated by the short implementation period, on the statutorily-protected small businesses.

Section 242 of the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996), amended 5 U.S.C. §611 to permit judicial review of noncompliance with the Regulatory Flexibility Act. Section 242 became effective on June 27, 1996, before the Report & Order was published in the Federal Register on July 1, 1996.

WHEREFORE, in light of the foregoing, the Joint Petitioners request that the Commission issue a stay of the D, E, and F block auctions consistent their Petition as hereby supplemented.

Respectfully submitted,

THE NATIONAL PAGING & PERSONAL  
COMMUNICATIONS ASSOCIATION

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DATED: July 26, 1996

**CERTIFICATE OF SERVICE**

I, Devora Willis, a secretary to the law offices of Fisher Wayland Cooper Leader & Zaragoza L.L.P., hereby certify that a true copy of the foregoing **"SUPPLEMENT TO PETITION FOR STAY PENDING RECONSIDERATION"** was hand delivered this 26th day of July, 1996, to the following:

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